

Proposed Amendment to Mr. Pack's Amendments to Resolution 172

A RESOLUTION TO INTRODUCE, CONSIDER, AND DETERMINE WHETHER TO ADOPT A PROPOSED AMENDMENT TO THE TALBOT COUNTY COMPREHENSIVE WATER & SEWER PLAN (THE "PLAN") THAT WILL RE-CLASSIFY PROPERTY LOCATED AT 27748 ST. MICHAELS ROAD, MD. RT. 33, EASTON, MARYLAND, GENERALLY KNOWN AS "CARROLL'S MARKET," TAX MAP 34, PARCEL 301, FIRST ELECTION DISTRICT, TALBOT COUNTY, MARYLAND, (THE "PROPERTY") FROM THE CURRENT CLASSIFICATION OF "UNPROGRAMMED" TO "S-1" (IMMEDIATE PRIORITY STATUS), TO MAKE THE PROPERTY ELIGIBLE FOR SEWER SERVICE FROM THE REGION II WASTEWATER TREATMENT PLANT (THE "PLANT"), AND TO AUTHORIZE EXTENSION OF SEWER SERVICE FROM THE PLANT TO THE PROPERTY

Proposed by: Councilman Foster
Date: September 28, 2010

KEY

Boldface.....Heading or defined term.

UnderliningAdded to existing law by original bill.

~~Strikethrough~~.....Deleted from existing law by original bill.

Double underliningAdded to bill by amendment.

~~Double strikethrough~~Deleted from existing law or bill by amendment.

* * *Existing law or bill unaffected.

* * *

1. Substantive: No – the Courts have said that an amended ordinance cannot be deemed to be new or different one unless it enlarges or narrows the scope of the original ordinance to such an extent that the ordinance as enacted can be said to be misleading in a substantial manner in its final form. Amendments that do not defeat the original purpose of the ordinance are not so substantial as to become a new ordinance. *Ajamian v. Montgomery County*, 99 Md. App. 665, 684-685 (1994). This amendment meets that test and it is therefore not substantive.

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1 **WHEREAS**, the owner of 27748 St. Michaels Road, Md. Rt. 33, Easton, Maryland, Tax Map 34,
2 Parcel 301, first election district, Talbot County, Maryland, generally known as “Carroll’s
3 Market,” (the “Property”), has requested the County to extend sewer service from the Region II
4 Wastewater Treatment Plant (the “Plant”) to the Property; and,

5
6 **WHEREAS**, the Talbot County Health Department, Office of Environmental Health, has
7 conducted an investigation of the Property to determine the current condition of the existing on-
8 site septic system; and,

9
10 **WHEREAS**, the Department of Public Works has processed the owners’ request to extend sewer
11 service to the Property in accordance with Chapter III, Amendment Procedures, of the Talbot
12 County Comprehensive Water and Sewerage Plan (the “Plan”) and the sewer service
13 designations of the St. Michaels Wastewater System and the Region I (Unionville, Tunis Mill
14 and Copperville) Wastewater System; ~~and,~~

15
16 ~~**WHEREAS**, on November 13, 1993, the County Council adopted a Resolution concerning~~
17 ~~access to the low-pressure collection system from Unionville, Tunis Mills, and Copperville to the~~
18 ~~Plant, which remains in effect and is applicable to this application.~~

19
20 **WHEREAS**, on November 13, 1993, the County Council adopted a Resolution concerning
21 access to the low-pressure collection system from Unionville, Tunis Mills, and Copperville to the
22 Plant, which remains in effect and is applicable to this application.

23
24 **NOW, THEREFORE**, be it resolved by the County Council of Talbot County, Maryland as
25 follows:

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27 ~~**Section 1.** Upon introduction of this Resolution, a public hearing will be scheduled and~~
28 ~~advertised in a newspaper of general circulation in Talbot County advising the public of the date,~~
29 ~~time, place, and purpose of the public hearing, at which time this application will be open for~~
30 ~~receipt and consideration of public comment.~~

31
32 **Section 21.** In accordance with the requirements of Environment Article § 9-506(a)(1), Md.
33 Ann. Code, the proposed amendment ~~shall be~~ has been submitted to the Talbot County Planning
34 Commission and the Talbot County Public Works Advisory Board for review and comment,
35 within a 30 day period, for consistency with planning programs for the area. Pursuant to the
36 requirements set forth in the above State statute, before the County Council may adopt the
37 proposed amendment the Talbot County Planning Commission must first certify that the
38 amendment is consistent with the County Comprehensive Plan prepared under Article 25A, §5
39 (X), Md. Ann. Code.

40
41 ~~**Section 32.**~~ Upon conclusion of the public hearing(s), closing of the public record, receipt and
42 consideration of certifications and recommendations from the Planning Commission and Public
43 Works Advisory Board, the County Council will discuss the merits of the application, approve
44 findings of fact and conclusions of law, and decide to approve or disapprove the proposed
45 amendment.

Section ~~4~~3. The proposed amendment is as follows:

1. The Talbot County Comprehensive Water and Sewerage Plan shall be amended to reclassify 27748 St. Michaels Road, Md. Rt. 33, Easton, Maryland, generally known as “Carroll’s Market,” Tax Map 34, Parcel 301, first election district, Talbot County, Maryland, from “Unprogrammed” to “S-1”, (Immediate Priority Status);
2. Sewer service for the Property as proposed by the amendment has been found to comply with the current Sewer Service Allocation Policy for Region I, Unionville, Tunis Mills, and Copperville.

~~3. Sewer service for the Property as proposed by the amendment has been found to comply with the Resolution adopted by the County Council on November 13, 1992 concerning access to the low pressure collection system from Unionville, Tunis Mills, and Copperville to the Plant.~~

~~4.3.~~ The peak flow sewer allocation for the Property shall be limited to a maximum of ~~300~~ 600 gallons per day based on 185 gallons per day per equivalent dwelling unit, and actual flows may not exceed ~~300~~ 600 gallons per day. The remaining capacity for Region I, Unionville, Tunis Mills, and Copperville, shall be reduced from 5,900 to ~~5,600~~ 5,300 gallons per day.

~~5.4.~~ Except as permitted by combination or lot line revision between parcels in common ownership of the Property Owner as of the date of approval of this Resolution, the sewer extension and allocation of capacity to the Property shall be restricted to serve only the Property as defined by existing boundaries;. In any event, the sewer service shall be limited only to existing structures as currently sized, and only existing uses on the Property as of the date of adoption of this Resolution, namely a gas station, deli, and convenience store. The sewer extension and allocation shall not be used to enlarge, expand, or intensify these existing structures or uses without an amendment of this Resolution duly approved by the County Council. Adoption of this Resolution shall not excuse, modify, or supersede requirements for current and ongoing compliance with all applicable federal, State, and local statutes, ordinances, or regulations, including issuance of all required permits and approvals for connection of the Property to the Plant.

~~6.5.~~ This Resolution shall make no sewer service available to any area beyond the existing boundaries of the Property. No other property, lot, or parcel, including any reconfiguration or recombination of the Property, shall be entitled to service or capacity under this Resolution. Notwithstanding this limitation, existing lots may be combined or existing lot lines may be revised as set forth in Paragraph 5 to make the Property contiguous to the force main, but service shall not be available to any additional area added to the Property by reason of such combination or lot line revision.

~~7.6.~~ The Property Owner shall be solely responsible for and shall pay for all design, engineering, construction, and maintenance, and repair costs of the line and any appurtenant equipment required to connect into the County-owned force main. The design shall be subject to review and approval by the County Engineer, shall be consistent with

88 reasonable ~~commercial design~~ standards for similar ~~installations projects~~, and shall include
89 a duplex pumping operation and other features, components, and materials as the County
90 Engineer or his designee may reasonably require.

91 ~~8.7.~~ The Property Owner shall be solely responsible for and shall pay all remediation,
92 mitigation, damages, or other costs, charges, fines or penalties required to address any
93 environmental damage or harm resulting from the connection, installation, or future use of
94 infrastructure authorized by this Resolution.

95 ~~9.8.~~ The Property Owner shall construct and continuously maintain in good operating
96 condition an in-ground grease trap that shall be pumped out at least once every three
97 months, at a minimum, or more often as necessary to prevent inflow, deposit, or
98 accumulation of grease into the Plant's collection system.

99 ~~10.9.~~ The Property Owner shall pay a connection fee of Twenty Seven Thousand
100 Dollars (\$27,000) to the Talbot County Sanitary District (the "District"), before
101 commencing construction to connect the Property to the Plant. The connection shall be
102 subject to periodic charges, tariffs, and policies as may be adopted from time to time by
103 the County or the District.

104 ~~11.10.~~ The terms and conditions set forth in this Resolution shall run with and bind the
105 Property, the Property Owners, their heirs, personal representatives, successors, and
106 assigns. These terms and conditions shall be incorporated into an appropriate agreement or
107 declaration of restrictive covenants, in form and content acceptable to the County, to
108 include provisions for enforcement and remedies upon default for the benefit of the
109 County, to be executed by the Property Owners and recorded among the land records of
110 Talbot County within sixty (60) days from the date of the approval of this Resolution.

111 Adoption of this amendment to the Plan authorizes the Property Owner to construct the
112 necessary improvements and infrastructure to connect the Property to the Plant in accordance
113 with and subject to the terms of this Resolution and compliance with applicable design and
114 technical requirements, rules, and regulations of all local, state, and federal authorities